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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/512,395	02/24/2000	Jay J. Sturges	42390.PO744c2	5784

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EXAMINER	
ZHEN, WEI Y	
ART UNIT	**PAPER NUMBER**
2191	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/512,395	STURGES, JAY J.	
	Examiner	Art Unit	
	Wei Y. Zhen	2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 1005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *21-37 and 39-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-37 and 39-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the amendment filed on 8/23/2004.

2. Claims 21-37, 39-41 are pending.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 21-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10-18 of U.S. Patent No. 6,138,273. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons.

The instant claims 21 and 22 are different from patented claim 10 because the instant claim 21 does not recite means for directly encoding....without of extracting an op code of said microinstruction; Clearly, applicant is attempting to obtain broader coverage in the instant claim in the application. The change would be obvious to one of the ordinary skill in the art at the time the invention was made because one of ordinary skill in the art would want to perform the interpretation on various types of components as required by different types of systems.

The instant claim 23 corresponds to claim 11 of the patented claim.

The instant claim 24 corresponds to claim 12 of the patented claim.

The instant claim 25 corresponds to claim 13 of the patented claim.

The instant claim 26 corresponds to claim 14 of the patented claim.

The instant claim 27 corresponds to claim 16 of the patented claim.

The instant claims 28-32 are rejected for the reasons set forth in the rejections of claims 21-26.

The instant claims 33-40 are broader claims of claim 10 of the patented claim.

The instant claim 41 corresponds to claim 18 of the patented claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-22, 26, 28, 32-37, 39, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Hara, US 4,719,564.

As per claim 21, Hara discloses

receive a literal source code macroinstruction, encode the literal source code macroinstruction into corresponding subroutine address without an intermediate translation (Fig. 5 and associated text); generate an execution stream, store the subroutine address (Fig. 5 and associated text).

As per claim 22, Hara discloses execute a subroutine identified by the subroutine address (Fig. 5 and associated text).

As per claim 26, Hara discloses a step of pointing to the first item associated with said subroutine stored in said execution stream (Fig. 5 and associated text).

Claims 28, 32 are rejected for the reason set forth in the rejection of claims 21, 26.

As per claim 33, Hara discloses encode an instruction to provide a corresponding executable address without an intermediate translation (Fig. 5 and associated text).

As per claim 34, Hara discloses receive the macroinstruction (Fig. 5 and associated text).

As per claim 35, Hara discloses generate an execution stream (Fig. 5 and associated text).

As per claim 36, Hara discloses translating a source code instruction to generate a subroutine address without an intermediate translation (Fig. 5 and associated text).

As per claim 37, Hara discloses translating the source code instruction includes directly translating the source code (Fig. 5 and associated text).

As per claim 39, Hara discloses receiving the source code instruction (Fig. 5 and associated text).

As per claim 41, Hara discloses store the subroutine address (Fig. 5 and associated text).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 23-25, 29-31, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hara, US 4,719,564 in view of Aho (Compilers, Principles, Techniques, and Tools).

As per claims 23-25, Hara does not explicitly disclose pushing an argument onto a stack as claimed...popping an argument from a stack as claimed...pushing a result...onto a stack as claimed. However, Aho discloses pushing an argument onto a stack as claimed...popping an argument from a stack as claimed...pushing a result...onto a stack as claimed (p. 65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of Aho into Hara to popping an argument from a stack as claimed...pushing a result...onto a stack as claimed because one would want to facilitates the computational process.

Claims 29-31 are rejected for the reason set forth in the rejection of claims 23-25.

As per claim 40, Hara doesn't explicitly disclose parsing the source code instruction.

However, Aho discloses parsing source code (p. 160).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of Aho into Hara to parse the source code instruction because one would want to facilitate the process of the interpretation.

Claims 2, 4, 5 are a programmable interpreter claim corresponding to method claims 12, 14, 15 respectively and rejected for the reason set forth in the rejections of claims 12, 14, 15 respectively.

6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hara.

As per claim 27, Hara does not explicitly disclose recursively execute a subroutine.

However, Official Notice is taken that recursively executing subroutine was well known in the art at the time the invention was made.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teaching of the well known knowledge into Hara to recursively recursively execute a subroutine because one would want to utilize subroutine when it is needed during the execution process.

Response to Arguments

7. Applicant's arguments with respect to claims 21-37, 39-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wei Y Zhen whose telephone number is (571) 272-3708. The examiner can normally be reached on Monday-Friday, 8 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wei Zhen

WEI Y. ZHEN
PRIMARY EXAMINER